

# Washington State Judicial Branch 2015-2017 BIENNIAL BUDGET REQUEST

## Decision Package

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**Agency** Office of Civil Legal Aid

**Decision Package Title** Civil Legal Aid Delivery Capacity Enhancement

**Budget Period** 2015-2017 Biennial Budget

**Budget Level** Policy Level

### Agency Recommendation Summary Text

Upgrade client service capacity at statewide Northwest Justice Project to minimum sustainable levels consistent with increased client demand levels, enhance support for state-funded volunteer and specialty legal aid providers and address critical agency administrative needs.

### Fiscal Detail

Operating Expenditures	FY 2016	FY 2017	Total
<b>001-1 General Fund State</b>	\$ 1,479,000	\$ 1,479,000	\$ 2,958,000
Staffing	FY 2016	FY 2017	Total
<b>FTEs (number of staff requested)</b>	.5	.5	.5

### Package Description

OCLA seeks \$2,880,000 to enhance basic client service capacity across the state-funded legal aid delivery system to ensure that those facing the most profound civil legal problems have equitable access to the type and level of high quality civil legal assistance they need to address such problems regardless of where they live. OCLA also seeks \$78,000 in funding to add .5 FTE to agency staff to reflect increased needs for professional administrative support.

## **Narrative Justification and Impact Statement**

**This package contributes to the Judicial Branch Principle Policy Objectives as identified below.**

### **Fair and Effective Administration of Justice in All Civil and Criminal Cases.**

*Washington courts will openly, fairly, efficiently and effectively administer justice in all criminal and civil cases, consistent with constitutional mandates and the judiciary's duty to maintain the highest level of public trust and confidence in the courts.*

Access to timely, competent and effective civil legal assistance is essential to the ability of litigants to effectively assert and defend important legal rights within the justice system. Such access is also essential for the courts to deliver on the constitutional promise of administering real justice in all cases openly and without unnecessary delay. Civil legal aid offers a legal voice for low income people who lack any other means of participating in legal proceedings in which they are involved. In so doing, it is the vehicle through which the justice system offers both fairness and the appearance of fairness.

**Accessibility.** *Washington courts, court facilities and court systems will be open and accessible to all participants regardless of cultural, linguistic, ability-based or other characteristics that serve as access barriers.*

Persons with disabilities limiting their ability to effectively participate in judicial proceedings are disproportionately poor. The availability of civil legal aid services helps ensure that these people are able to assert their rights to reasonable accommodation and otherwise overcome access barriers that limit their ability to meaningfully participate in legal proceedings in which they are parties. The same is true for individuals who are limited English proficient and who are also disproportionately poor. Legal aid helps them assert their language access rights and to effectively participate in civil legal proceedings in which they are involved.

**Access to Necessary Representation.** *Constitutional and statutory guarantees of the right to counsel shall be effectively implemented. Litigants with important interest at stake in civil judicial proceedings should have meaningful access to counsel.*

In an adversary civil justice system, those with an effective legal voice are much more likely to be successful in presenting their cases than those without. Legal aid offers a full spectrum of assistance to enable low-income people effectively participate in their legal cases. In those cases where the stakes are important, the issues complex and the other side is represented, an unrepresented individual is at a distinct disadvantage. Within the resource limits available, civil legal aid -- whether offered through a staffed legal aid program or a pro bono attorney -- levels the playing field and ensures that evidence and arguments of those with important interests at stake will be heard and considered on their merits.

## **Measure Detail**

### **Impact on clients and service**

Since 2009, budget and staffing cuts at Northwest Justice Project (NJP) have resulted in deep reductions in client service, both at the field office level and at the statewide CLEAR intake, advice and referral center. Since 2009, NJP has experienced deep and continuing funding reductions, has been unable to secure necessary maintenance level adjustments to its state appropriation and has incurred increased costs of operation. As a consequence, NJP lost 20% of its basic field client service staff between 2009 and 2013 (from 106 FTE attorneys to 86) and its client service numbers dropped from 14,700 to about 9,200. The vast majority of this case reduction came from NJP's CLEAR system. This reflects (a) the consequence of lost staffing and (b) the fact that CLEAR staff had to spend a substantially greater amount of time per case as they narrowed priorities to the most compelling, complex and time consuming legal matters.

The proposed budget request will allow NJP to add 10-12 FTE attorneys (DOE) to address critical client service capacity and geographic proportionality issues. It will also provide funding to enable other state-funded pro bono and specialty legal aid providers to increase client services in those areas of greatest need (to be better understood following publication of the Civil Legal Needs Study Update). The package will also seek funding for an additional .5 FTE professional administrative support staff person to assist OCLA manage the agency's ever growing array of legal, programmatic and administrative tasks and responsibilities.

As a whole the package is designed to (a) preserve and upgrade staffed legal aid capacity in the most rural and remote parts of the state as well as areas where there is a disproportionate lack of staffed legal aid presence, (b) enhance the ability of pro bono programs to recruit, train and effectively support a larger number private volunteer attorneys, (c) protect the core functions of providers that provide services to clients requiring specialized focus and expertise, (d) otherwise ensure the continuing relevancy of our state civil legal aid system to those who need it most and (e) ensure that OCLA has sufficient professional administrative capacity to effectively discharge its oversight and related functions.

### **Impact on other state services**

In addition to meeting the critical justice needs of eligible clients, timely and effective civil legal aid -whether provided by a staffed legal aid attorney or a cooperating volunteer -- solves problems that, if left unaddressed, often result in greater demand for state services or the expenditure of other scarce governmental resources. For example, legal assistance to secure protection from a domestically violent relationship can reduce demand on law enforcement and court services; legal assistance that protects a displaced worker's claim for unemployment insurance protects that worker's family security, housing and income stability while the worker seeks new employment; legal assistance that preserves a family's housing reduces demands on local and state homeless assistance; legal assistance that helps a returning veteran secure access to essential mental health services through the Veteran's Administration reduces demand on state services; legal assistance that secures appropriate special educational services for a failing student could help avoid that student's potential involvement in the juvenile justice system; legal help that results in securing a low income

individual's eligibility for federal income and medical assistance programs results in less demand for scarce state-funded services and, in the case of those who were homeless at the time, saves local government about \$50,000 per person per year.

### **Relationship to Capital Budget**

N/A

### **Required changes to existing Court Rule, Court Order, RCW, WAC, contract, or plan**

N/A

### **Alternatives explored**

Basic and consistent underwriting support for the state-funded civil legal aid system comes from three sources -- OCLA, the federal Legal Services Corporation and IOLTA and other funds administered by the Legal Foundation of Washington. OCLA targets state funding to NJP and key pro bono and specialty legal aid providers, consistent with client need and the respective capacity of these programs to deliver effective assistance to eligible clients on matters that fall within authorized areas of legal assistance and in every part of the state. Federal funding remains well below the 2009 level. The ATJ Board's Equal Justice Coalition continues to work with the ABA and its national partners to encourage Congress to increase funding for the Legal Services Corporation.

In the current biennium, OCLA's appropriation was cut by \$980,000 from the FY 2013 carryforward level. Cumulative state cuts experienced since FY 2009 exceed \$2.73 million. This does not include more than \$2.4 million in requested but unfunded maintenance level adjustments in the FY 2009-11, FY 2011-13 and FY 2013-15 biennia. Thus, the purchasing power of the state appropriation for civil legal aid in the current biennium is down over \$5 million from the FY 2009-11 biennium.

IOLTA funding remains hostage to historically low interest rates. The Legal Foundation of Washington reports that 2013 revenues were at an all-time low and that no increase is anticipated in the short term. Private resource development continues, but is not a substitute for the state's responsibility to adequately fund the legal aid system.

### **Distinction between one-time and ongoing costs and budget impacts in future biennia**

These will be ongoing costs that will affect future carryforward levels of agency funding.

### **Effects of non-funding**

In both absolute and relative terms, NJP's client service delivery footprint is not sustainable. One attorney offices continue to be nursed in Walla Walla, Aberdeen and Port Angeles. Across the balance of the state, legal aid attorney-to-eligible client ratios test the limits of institutional relevancy. In King County, the Northwest Justice Project has one basic field legal aid attorney for more than 25,000 eligible clients. In Spokane and NE WA, the current number is about 1:24,000. In Pierce County, the current number is 1:19,000. In Benton-Franklin Counties, it is 1:23,000. Non-funding will lead to further erosion and the likely closure of rural offices.

Despite leveraging more than 65,000 hours of volunteer attorney time on state-eligible cases, pro bono programs continue to operate on a shoestring and remain limited in their ability to effectively recruit, train and support the untapped pool of potential volunteer attorneys who, in turn, have the potential to serve many more clients on important matters without charge. Non-funding will limit these opportunities and further compromise efforts to develop and proliferate best practices in pro bono delivery and reduce unnecessary duplication of functions amongst the programs.

Non-funding will also result in continued erosion in the capacity of key specialized legal aid providers (TeamChild, Seattle Community Law Center, Unemployment Law Project, and Solid Ground) to deliver highly specialized civil legal aid services to some of the most vulnerable and isolated residents of our state. This will place ever greater burdens on NJP to replicate this capacity at a time when it has neither the resources nor expertise to do so.

### **Expenditure calculations and assumptions and FTE assumptions**

<b>Object Detail</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>Total</b>
<b>Staff Costs</b>	\$ 39,000	\$ 39,000	\$ 78,000
<b>Non-Staff Costs</b>	\$ 1,440,000	\$ 1,440,000	\$ 2,880,000
<b>Total Objects</b>	<b>\$ 1,479,000</b>	<b>\$ 1,479,000</b>	<b>\$ 2,958,000</b>